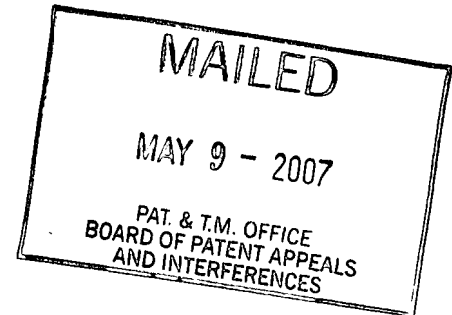


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SIMON A. J. HOLDSWORTH

Application No. 10/016,935



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on December 14, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

On September 8, 2006, an Examiner's Answer was mailed. It appears that the Examiner's Answer cites "Kahn et al. (US Publication No. 2001/0143951)" as prior art of record. However, under the heading "Grounds

of Rejection” page 7, the examiner reference Khan et al. (US Publication No. 2002/0143951 A1). A clarification of which reference is the prior art relied upon in the rejection is required.

REPLY BRIEF

On November 1, 2006, the examiner mailed a communication acknowledging receipt of Appellant’s Reply Brief, dated October 10, 2006. A review of the communication acknowledging the Reply Brief reveals that the examiner did not provide proper acknowledgment. The comments made by the examiner constitutes a Supplemental Examiner’s Answer. In accordance with MPEP 1207.05, all supplemental examiner’s answers must be approved by a Technology Center (TC) Director or designee.

In accordance with MPEP 1207.05:

Every supplemental examiner’s answer must be approved by a Technology Center (TC) Director or designee. The examiner may furnish a supplemental examiner’s answer in response to any one of the following:

- (a)(1) A reply brief that raises new issues. The examiner may NOT include a new ground of rejection in the supplemental examiner’s answer responding to a reply brief. See 37 CFR 41.43(a)(2). Appellant may file another reply brief in response to the supplemental examiner’s answer within two months from the mailing of the supplemental answer. See MPEP § 1208.

The Communication mailed November 2, 2006, was not signed by the Technology Center Director or designee.


Also note that the appellant considered the Examiner's communication mailed November 2, 2006, as a Supplemental Examiner's Answer and filed an additional Reply Brief on December 4, 2006, in response.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to clarify the application number of the Kahn reference, as identified above;
- 2) vacate the acknowledgment of the Reply Brief mailed November 2, 2006;
- 3) proper acknowledgment of the Reply Briefs filed October 10, 2006 and December 4, 2006 is required; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

PATRICK J. NOLAN
Deputy Chief Appeals Administrator
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PN/dal

Application No. 10/016,935

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